

Under the Graphic Arts Machinery and Equipment Exemption, machinery and equipment, including repair and replacement parts used primarily in graphic arts production may be purchased free from Retailers' Occupation Tax. See 35 ILCS 120/2-5(4). See, 86 Ill. Adm. Code 130.325.) (This is a GIL.)

December 20, 2001

Dear Xxxxx:

This letter is in response to your letter received December 4, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

AAA provides various types of services to client companies, including;

- 1) Providing copier/reprographic services under which we make copies, which may then be punched and bound into binders. Copy machines perform the copy function. The paper used for the copies can either be provided by the client or supplied by my company as the service provider. The fee structure for this service is either a flat monthly fee up to a certain amount of copies with an additional "x" cents per copy thereafter, or done on a cost per copy basis.
- 2) Statement printing, whereby we interface with our client's customer database, and print out billing statements or other customer information. The paper used can either be provided by the client or supplied by my company as the service provider. The fee structure for this service is generally a flat monthly fee up to a certain amount of statements printed with an additional "x" cents per statement printed thereafter, or on a cost per statement basis.
- 3) Offset printing services whereby we mass produce color-advertising circulars, for instance, from a master copy provided by the client

Please advise in writing, and cite appropriate references;

- a) Is the providing of these types of services subject to sales tax?
- b) Is the paper provided, by the service provider taxable when purchased, and/or taxable when transferred to the client?

- c) Must the value of the tangible personal property transferred incident to the providing of these services be itemized in the billing to the client?
- d) Many states exempt equipment used in manufacturing or in the printing industry. Does this equipment qualify for exemption when initially purchased by the service provider?

Thank you for your assistance.

For the purposes of the answers to your questions, we are assuming that the services are conducted in Illinois. Under the Graphic Arts Machinery and Equipment Exemption, machinery and equipment, including repair and replacement parts used primarily in graphic arts production may be purchased free from Retailers' Occupation Tax. See 35 ILCS 120/2-5(4) and 86 Ill. Adm. Code 130.325, enclosed.

Public Act 91-541, effective August 13, 1999, amended Section 2-30 of the Retailers' Occupation Tax Act. Effective August 13, 1999, section 2-30 defines the term "graphic arts production" to mean "printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System published by the U.S. Office of Management and Budget, 1997 edition. Graphic arts production does not include (i) the transfer of images onto paper or other tangible personal property by means of photocopying or (ii) final printed products in electronic or audio form, including the production of software or audio-books."

Prior to the enactment of P.A. 91-541, "graphic arts production" meant printing by one or more of the common processes of printing or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. This definition is applicable to purchases of graphic arts machinery and equipment purchased prior to August 13, 1999.

The first type of services you describe are photocopying services that are specifically excluded from the definition of graphic arts production. During a phone conversation on December 5, 2001 you clarified the second type of services by indicating that an inkjet printer is used. This printer may qualify for the graphic arts exemption if all of the above conditions are met. Offset printing is described in Section 130.325 and the equipment used for this graphic arts process does generally qualify for the exemption. However, your letter does not describe the equipment involved in your offset printing process, so we cannot determine if it specifically qualifies.

The copying, statement printing, and offset printing (assuming the products produced by offset printing constitute custom printed items) are services subject to the Service Occupation Tax Act. Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. For your general information we are enclosing a copy of 86 Ill. Adm. Code Part 140 regarding sales of service and Service Occupation Tax.

The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service

Occupation Tax on cost price if they are registered de minimis servicemen; or, (4) Use Tax on cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the separately stated selling price of the tangible personal property transferred. If servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use the second method where they will use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of the sales of service. Upon selling their product, they are required to collect the corresponding Service Use Tax from their customers. See 86 Ill. Adm. Code 140.106.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See, 86 Ill. Adm. Code 140.101(f) enclosed. This class of registered de minimis servicemen is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. Servicemen that incur Service Occupation Tax collect the Service Use Tax from their customers. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers. See 86 Ill. Adm. Code 140.108.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. Those servicemen are not authorized to collect "tax" from their service customers because they, not their customers, incur the tax liability. Those servicemen are also not liable for Service Occupation Tax. It should be noted that servicemen no longer have the option of determining whether they are de minimis using a transaction by transaction basis. See 86 Ill. Adm. Code 140.109.

Most of the persons involved in graphic arts production are de minimis servicemen and choose to utilize the fourth method of determining their tax liability. If you choose this method, you would pay tax to your supplier based upon the cost price of the paper and other tangible personal property you transfer.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.